

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

JOSHUA J. MINIX

Plaintiff,

v.

**CIVIL ACTION NO. 1:19CV108
(Judge Keeley)**

CENTRAL SOURCE, LLC, ET AL.,

Defendants.

**ORDER ADOPTING REPORT AND RECOMMENDATION [DKT. NO. 87]
AND DISMISSING U.S. DEPARTMENT OF EDUCATION WITHOUT PREJUDICE**

On or about April 9, 2019, the pro se plaintiff, Joshua J. Minix ("Minix"), commenced this action by filing a complaint in the Circuit Court of Preston County, West Virginia (Dkt. No. 1, at 9). On May 15, 2019, the defendant, Progressive Casualty Insurance Company, filed a notice of removal pursuant to 28 U.S.C. §§ 1331, 1441, and 1446 (Dkt. No. 1). The Court then provided Minix with a Notice of General Guidelines for Appearing Pro Se in Federal Court (Dkt. No. 2), and referred the action to United States Magistrate Judge Michael J. Aloï for initial screening and a report and recommendation ("R&R") regarding any motions filed in accordance with LR PL P 2 and 28 U.S.C. § 1915(e) (Dkt. No. 16).

On December 5, 2019, the defendant, U.S. Department of Education ("DOE"), filed a motion to dismiss for lack of proper service pursuant to Federal Rule of Civil Procedure 12(b)(5) (Dkt. No. 78). Magistrate Judge Aloï issued a notice pursuant to Roseboro

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v. Garrison, 528 F.2d 309 (4th Cir. 1975) to Minix on December 6, 2019, informing him of his right to file a response to the motion to dismiss within twenty-one (21) days following receipt of the notice (Dkt. No. 79). A return receipt for the Roseboro notice filed with the Court showed delivery of the notice to Minix's address on December 11, 2019 (Dkt. No. 80).

On February 11, 2020, Magistrate Judge Aloï recommended that the Court grant the DOE's motion to dismiss (Dkt. No. 87). The R&R specifically warned Minix that failing to object to the recommendation would result in the waiver of his right to appeal the ruling. According to a return receipt filed with the Court, the R&R was delivered to Minix's address on March 9, 2020 (Dkt. No. 92). To date, Minix has not filed objections to the R&R.¹

Following careful review of the record, and finding no clear error, the Court **ADOPTS** the R&R in its entirety (Dkt. No. 87), **GRANTS** the DOE's motion to dismiss for the reasons stated in the R&R, and **DISMISSES** the DOE without prejudice.

It is so **ORDERED**.

¹ The failure to object to the R&R not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issues presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).

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The Court **DIRECTS** the Clerk to transmit a copy of this order to the pro se plaintiff by certified mail, return receipt requested, to his last known address and to counsel of record by electronic means.

Dated: March 27, 2020.

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE